

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**  
**Before the Director of the Department of Insurance and Financial Services**

**In the matter of:**

**Michigan Tri-County Physical Therapy**  
**Petitioner**

**File No. 21-1798**

**v**

**MemberSelect Insurance Company**  
**Respondent**

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**Issued and entered**  
**this 31<sup>st</sup> day of January 2022**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On December 1, 2021, Michigan Tri-County Physical Therapy (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 18 and 30, 2021, and September 9, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 14, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 14, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 29, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 24, 2022.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on 26 dates of service<sup>1</sup> in May, June, July, and August 2021. The Petitioner billed the treatments under procedure codes 97014, 97035, 97110, 97140, 97101, and 97154, which are described as: electrical stimulation, ultrasound, therapeutic exercises, manual therapy, application of hot/cold packs, and reevaluation of physical therapy established plan of care, respectively. In its *Explanation of Benefits* letters, the Respondent stated that the treatment “exceeds the period of care for either utilization or relatedness” and referenced American College of Occupational and Environmental Medicine (ACOEM) and Official Disability Guidelines (ODG) in support.

With its appeal request, the Petitioner submitted documentation that identified the injured person's diagnoses as pain in the thoracic spine, cervicalgia, and muscle spasm of the back following a May 2020 motor vehicle accident. The Petitioner submitted progress notes from May 10, 2021 and July 1, 2021 that identified the injured person's deficits as: pain in the right mid back to shoulder blade with activities; a lack of full active range of motion in the right shoulder at flexion, extension, internal and external rotation; mild tenderness, limitations with activities of daily living that require overhead/sideway motions; unable to do his normal job; and lack of full home exercise program. Additionally, the Petitioner included a physician prescription order, dated May 24, 2021, for the injured person to receive physical therapy treatment 3-5 times per week for 90 days.

In its reply, the Respondent reaffirmed its initial determination and stated:

A prior denial of these requests was made as the medical records that were received did not support these requests. Additional medical [records] have been received and reviewed. The medical records do not support this request. It appears, per history, that over 90 physical therapy treatment sessions have been provided since 6/2/2020... for the 5/30/2020 motor vehicle injury. Per the documentation, subjective complaints of “2-8/10 pain to the neck, right shoulder, mid back, and shoulder blade, area.” Per therapist, “some pain relief with therapy sessions, pain down to 3-4/10,” was noted. The physical therapy treatment exceeds the ACOEM and ODG guideline quantity recommendation.

## III. ANALYSIS

### Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that

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<sup>1</sup> The dates of service at issue are May 20, 24, and 25, 2021; June 3, 7, 8, 14, 15, 17, 22, 24, 25, 28, and 29, 2021; July 1, 6, 8, 14, 15, 19, 20, 23, 28, and 29, 2021; and August 2 and 3, 2021.

the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not established on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is licensed and board-certified in physical therapy. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Milliman Care Guidelines for Spine Soft Tissue Dysfunction and Pain Rehabilitation for its recommendation.

The IRO reviewer stated that extended physical therapy may be appropriate when “there is evidence of function therapy progress” or when there is documentation that the injured person would require maintenance therapy. Further, the IRO reviewer noted that Milliman Care Guidelines for Pain Rehabilitation state that rehabilitation therapy for an appropriate pain condition is indicated when “all underlying causes have been assessed and treated.”

Based on the submitted documentation, the IRO reviewer noted that the injured person reported pain in the right midback and shoulder blade on May 10, 2021. The IRO reviewer noted that the injured person continued physical therapy treatment with reported continued pain and discomfort. However, the IRO reviewer stated that all clinical documentation was not submitted for the dates of service at issue.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy treatments provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

#### **IV. ORDER**

The Director upholds the Respondent’s determinations dated August 18 and 30, 2021, and September 9, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review

should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox  
Director  
For the Director:

X *Sarah Wohlford*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford